

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Peter Hoch
Serial Number:	09/911,437
Filed:	At Issue in This Petition
For:	GEAR RACK ARRANGEMENT HAVING RESILIENTLY BRACED GEAR RACKS AND ANTI-DETACHMENT MEANS
Art Unit:	2512
Examiner:	Kevin Watkins

5           **PETITION TO BE ACCORDED FILING DATE OF REVIVED PARENT  
APPLICATION and RESPONSE TO NOTICE OF INCOMPLETE APPLICATION**

10           Hon. Assistant Commissioner for Patents  
U. S. Patent and Trademark Office  
Washington, D.C. 20231

Sir:

15           Applicant hereby petitions to be accorded the filing date (5/18/95) of parent application (08/443,518) for the above-identified continuation application. It is submitted that the proper filing date was denied in error in a Notice Of Incomplete Non-provisional Application mailed 09/07/2001.

20           This petition includes a complete response to the Notice of Incomplete Non-provisional Application and an authorization to charge all fees in connection with the petition and response to the notice to applicant's Deposit Account 07-0832.

**STATEMENT OF FACTS**

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1. The Board of Patent Appeals and Interferences issued a decision on 24 January 2001 affirming the final rejection of Claims 1, 6 and 7 (all active claims) of

parent application S/N 08/443,518. The parent application became abandoned for as of the date the decision of the Board was mailed (24 January 2001).

2. Applicant filed a Petition to Revive the parent application on 24 July 2001  
5 for the sole purpose of filing the subject continuation application. A copy of applicant's petition is enclosed (**Enclosure 1**).

3. Applicant's Petition to Revive the parent application 08/443,518 was  
granted by the Office of Petitions on 27 August 2001 (**Enclosure 2**), thereby  
10 establishing continuity of the parent application and the present continuation application. (The parent application was abandoned with the filing of the continuation application.)

4. Applicant then received a Notice of Incomplete Nonprovisional  
15 Application mailed 09/07/2001 (**Enclosure 3**). The Notice denied a filing date to applicant's continuing application and required submission of an oath or declaration and a *complete specification*.

#### SUBMISSION

20 It is submitted that while the requirement for a new oath or declaration was proper, the action of denying the filing date of the present continuing application as lacking a complete specification was improper because none was required as evidenced by Enclosures 1, 2 and 3.

These enclosures clearly show that at the time this continuing application  
25 was filed, there was continuity between the parent and continuing applications and so the filing date accorded this continuing application should have been the filing date (18 May 1995) of the parent application.

#### RESPONSE TO NOTICE

30 Enclosed herewith is a complete response to the Notice of Incomplete Non-Provisional Application including a copy of the complete specification (**Enclosure 4**), a copy of the original Declaration and Assignment in the parent application (**Enclosure 5**) and a copy of a new Declaration and Assignment for the continuing application.

**RELIEF REQUESTED**

It is respectfully requested that the present continuing application be accorded the filing date, 18 May 1995, of the parent application 08/443,518.

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**FEES**

The Notice of Incomplete Non-Provisional Application was mailed 7 September 2001 having a two month response date which ended 7 November 2001. Enclosed is a request for a one month extension of time to 7 December 2001. Enclosed is an authorization to charge applicant's Deposit Account Number 07-0832 for this fee.

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- Since this petition states that the application is entitled to a filing date (see enclosed Notice), applicant hereby requests a refund of the petition fee.

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Enclosed herewith is a paper authorizing a charge to applicant's deposit account for the petition fee and extension of time fee. Please charge any other fees which may be due and credit any overpayment to the Deposit Account Number 07-0832.

20

Please address all communications to:  
Joseph S. Tripoli  
Thomson Multimedia Licensing, Inc.  
Post Office Box 5312  
Princeton, New Jersey 08543-5312

Respectfully submitted,



**Frederick A. Wein, Attorney**

Reg. No. 27,168

**Certificate of Mailing Pursuant to 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in a postage paid envelope addressed to the Assistant Commissioner of Patents, Washington, D.C. on the date indicated below.

12/7/01  
Date



Frederick A. Wein, Reg. No. 27,168

Enclosures 1-6, as stated.

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Filed:	03/18/95
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Art Unit:	2512
Examiner:	Kevin Watkins

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**PETITION TO REVIVE UNINTENTIONALLY ABANDONED**

**APPLICATION pursuant to 37 CFR 1.137(b)**

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Hon. Assistant Commissioner for Patents  
U. S. Patent and Trademark Office  
Washington, D.C. 20231

Sir:

Applicant hereby petitions to revive the subject application under 37 CFR 1.137(b) for the purpose of filing a continuation application (enclosed herewith).

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The Board of Patent Appeals and Interferences issued a decision on 24 January 2001 in the final rejection of Claims 1, 6 and 7 (all active claims) of this application. The application became abandoned for failure to respond as of the date the decision of the Board was mailed (24 January 2001).

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This Petition, and an accompanying continuation application, is being filed based upon the application being unintentionally abandoned.

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In compliance with the provisions of 37 CFR 1.138(b)(1-4), the undersigned attorney of record hereby declares the following in support of this petition to revive the subject unintentionally abandoned application:

1. The failure to respond to the Decision of the Board was unintentional per 37 CFR 137 (b)(3);

2. This petition is being filed within one year of the date on which the application became abandoned per 37 CFR 137 (b) (4) (i);


3. This petition is accompanied by a proposed response comprising a continuation application accompanied by a pre-examination amendment per 37 CFR 137 (b) (1); and

4. This petition is also accompanied by a copy (in duplicate) of form Fee Transmittal For FY 2001, requesting that the Petition fee per 37 CFR 1.17(m)(revival, unintentional), and any other necessary fees, be charged to applicant's Deposit Account No. 87-0832.

It is respectfully requested that favorable consideration be given to this petition and that the accompanying continuing application and pre-examination amendment be entered.

Please address all communications to:  
Joseph S. Tripoli  
Thomson Multimedia Licensing, Inc.  
Post Office Box 5312  
Princeton, New Jersey 08543-5312

Respectfully submitted,

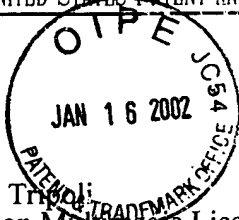
  
Frederick A. Wein, Attorney  
Reg. No. 27,133

Certificate of Mailing by Express Mail Pursuant to 37 C.F.R. 1.10	
I hereby certify that I am depositing this paper with the United States Postal Service as "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated below and this paper is addressed to the Assistant Commissioner of Patents, Box Patent Application, Washington, D.C. on the date indicated below.	
EL 675422573 US	
Express Mail No.	Date Deposited
Frederick A. Wein, Reg. No. 27,168	



## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.govJoseph Trippi  
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PO Box 5312  
Princeton, NJ 08543-5312

Paper No. 15

(2)



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AUG 27 2001

OFFICE OF PETITIONS

ON PETITION

In re Application of  
Hoch  
Application No. 08/443,518  
Filed: May 18, 1995  
Attorney Docket No. RCA-87.911

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 24, 2001, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of January 24, 2001, by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(c). As no claim was allowed, the above-identified application became abandoned on March 25, 2001. See MPEP 1214.06.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

Per petitioner's request, a petition fee of \$130 was charged to petitioner's deposit account. However, the fee for a petition under 37 CFR 1.137(b) is \$1,240. Therefore, an additional \$1,240 was charged to petitioner's deposit account. The original \$130 charged will be credited to the deposit account.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 09/911,437.

The file is now being forwarded to Files Repository.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Event	PETN / "GRANTED"
Deadline	
Entered	R 3/08/01